

that CMS deems necessary. CMS notifies the PDP sponsor within 5 working days after making its decision.

(vi) *Exception for fallback prescription drug plans.* CMS reserves the right to deny a request from a fallback prescription drug plan as defined in § 423.855 to disenroll an individual for disruptive behavior.

(vii) *Effective date of disenrollment.* If CMS permits a PDP to disenroll an individual for disruptive behavior, the termination is effective the first day of the calendar month after the month in which the PDP gives the individual written notice of the disenrollment that meets the requirements set forth in paragraph (c) of this section.

(3) *Loss of Part D eligibility.* If an individual is no longer eligible for Part D, CMS notifies the PDP that the disenrollment is effective the first day of the calendar month following the last month of Part D eligibility.

(4) *Death of the individual.* If the individual dies,

disenrollment is effective the first day of the calendar month following the month of death.

(5) *Individual no longer resides in the PDP service area—Basis for disenrollment.* The PDP must disenroll an individual if the individual notifies the PDP that he or she has permanently moved out of the PDP service area.

(6) *Plan termination.* (i) When a PDP contract terminates as provided in § 423.507 through § 423.510, the PDP sponsor must give each affected PDP enrollee notice of the effective date of the plan termination and a description of alternatives for obtaining prescription drug coverage under Part D, as specified by CMS.

(ii) The notice must be sent before the effective date of the plan termination or area reduction, and in the timeframes specified by CMS.

(7) *Misrepresentation of third-party reimbursement.* (i) If CMS determines an individual has materially misrepresented information to the PDP sponsor as described under § 423.44(b)(2)(v), the termination is effective the first day of the calendar month after the month in which the PDP sponsor gives the individual written notice of the disenrollment that meets the require-

ments set forth in paragraph (c) of this section.

(ii) *Reenrollment in the PDP.* Once an individual is disenrolled from the PDP for misrepresentation of third party reimbursement, the PDP sponsor has the option to decline future enrollment by the individual in any of its PDPs for a period of time CMS specifies.

#### § 423.46 Late enrollment penalty.

(a) *General.* A Part D eligible individual must pay the late penalty described under § 423.286(d)(3), except as described at § 423.780(e), if there is a continuous period of 63 days or longer at any time after the end of the individual's initial enrollment period during which the individual meets all of the following conditions:

(1) The individual was eligible to enroll in a Part D plan;

(2) The individual was not covered under any creditable prescription drug coverage; and

(3) The individual was not enrolled in a Part D plan.

(b) [Reserved]

[70 FR 4525, Jan. 28, 2005, as amended at 73 FR 54251, Sept. 18, 2008]

#### § 423.48 Information about Part D.

Each Part D plan must provide, on an annual basis, and in a format and using standard terminology that CMS may specify in guidance, the information necessary to enable CMS to provide to current and potential Part D eligible individuals the information they need to make informed decisions among the available choices for Part D coverage.

#### § 423.56 Procedures to determine and document creditable status of prescription drug coverage.

(a) *Definition.* Creditable prescription drug coverage means any of the following types of coverage listed in paragraph (b) of this section only if the actuarial value of the coverage equals or exceeds the actuarial value of defined standard prescription drug coverage as demonstrated through the use of generally accepted actuarial principles and in accordance with CMS actuarial guidelines.

(b) *Types of coverage.* The following coverage is considered creditable if it